

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

MISC. CIVIL APPLICATION (TR) NO. 597 OF 2021

Madhuri Shailesh Kawade/Potey vs. Shailesh s/o Shalikram Kawade

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms. Swati Kulkarni, Advocate for applicant.

CORAM : MANISH PITALE J.

DATE : 07/04/2022

Heard learned counsel for the applicant.

2. By this application the applicant (wife) is seeking transfer of petition for restitution of conjugal rights filed by the respondent (husband) from the Court of Civil Judge, Senior Division, Gondia to the Family Court at Nagpur.

3. This Court issued notice in the present application. Despite service, there is no representation on behalf of the respondent.

4. The learned counsel for the applicant has made submissions in consonance with the contents of the application. A perusal of the application shows that the parties got married on 10/12/2018 and that

there is a son from the wedlock, who was born on 22/09/2019. Due to matrimonial discord, the applicant claims to have left the matrimonial house and she is now residing at Nagpur with her parents. The applicant states that she has no independent source of income and she is dependent on her parents. She has filed an application under Section 125 of the Cr.PC. seeking maintenance from the respondent (husband). The said application was filed on 27/11/2019 before the Family Court at Nagpur and thereafter on 28/01/2020, the respondent (husband) has filed the aforesaid petition for restitution of conjugal rights at Gondia.

5. Considering the fact that the applicant is not having any independent source of income and the custody of the minor child is with her at Nagpur, as also the fact that she filed the application for grant of maintenance prior in point of time at Nagpur, this Court is of the opinion that the applicant has made out a case for transfer of the petition for restitution of conjugal rights initiated by the respondent(husband) at Gondia to the Family Court at Nagpur.

6. Accordingly, the application is allowed. The petition for restitution of conjugal rights bearing Hindu Marriage Petition No.17/2020, before the

Court of Civil Judge Senior Division, Gondia, is transferred to the Family Court at Nagpur.

7. The Civil Judge, Senior Division, Gondia is directed to immediately transfer the record to the Family Court at Nagpur.

JUDGE